

**Central Administrative Tribunal
Madras Bench**

OA/310/00234/2017

Dated 16th July Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

1. G.Santhanam
2. G.Damodaran
3. R.Parameshwaran
4. N.S.Ramachandran
5. P.Munisamy
6. A.Natarajan
7. N.Rajagopalan-II
8. B.Rajendra Singh
9. M.I.Mohammed Sultan Muhamud
10. M.Manoharan-II .. Applicants

By Advocate **M/s.R.Malaichamy**

Vs.

1. Union of India rep by the Secretary,
Department of Posts(Postal & Accounts Wing),
M/o Communications & Information Technology,
Dak Bhavan, Sansad Marg,
New Delhi 110 001.
2. The Secretary,
Department of Personnel & Training,
M/o Public Grievances & Pension,
North Block,
New Delhi 110 011.

3. The Deputy Director General(PAF),
M/o Communications,
Department of Posts, PA Wing,
Dak Bhavan, Sansad Marg,
New Delhi 110 001.
4. The General Manager,
Postal Accounts & Finance,
Ethiraj Salai,
Chennai 600 008. .. Respondents

By Adovacte **Mr.J.Vasu**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

Applicants 1 to 10 had filed this OA seeking the following relief. Applicant No.6 was reported dead and no further steps taken to implead legal heirs:-

“To call for the guidelines issued by the 2nd respondent in OM No.35034/1/97-Estt.(D) dated 09.8.1999 with regard to grant of ACP and declare clause 8 under Annexure I of conditions for grant of benefits as ultra vires of the Statute, further

call for the records of the 3rd respondent pertaining to his order which is made in No.33(10)/14/PA-Admn.I/701 to 710 and set aside the same, consequent to;

direct the respondents 1&4 to step up the pay of the applicants on par with their junior direct recruited Junior Accountants cum ACP Senior Accountants, in accordance with para 9 of OA No.156 of 2009 dated 19.1.2010 of the judgment of Punjab and Chandigarh Bench of this Tribunal and thereby further;

direct the respondents 1&4 to revise and re-fix the pay and allowance of the applicants and also the retirement service benefits and to pay the arrears of pay and allowances and retirement service benefits to the applicants; and

to pass such further orders as this Tribunal may deem fit and proper.”

2. The applicants entered service as Sorter in the Audit and Accounts Department. Then they were promoted as LDC, then as UDC/Junior Accountant and thereafter due to upgradation of posts, they were appointed as Senior Accountant w.e.f. 1.4.87 and retired from service on various dates. Applicant No.1 and 10 were also promoted as

AAO before their retirement. When the Assured Career Progression (ACP) was implemented, those completed 24 years were given 2 financial upgradation. But while doing so, the Junior Accountants who were appointed directly got their pay fixed higher than the applicants. The direct recruited LDC's and Junior Accountants are all juniors to the applicants in the cadre of Junior Accountants. According to the applicants, they are entitled to get stepping up of their pay on par with the direct recruited Junior Accountants. They mainly rely on the decision in "***Harcharan Singh Sudan***" case, and "***Ashok Kumar's*** case in support of their case.

3. The respondents filed a reply stating that the applicants had earlier filed OA 1758/2014 praying for getting the benefits as ordered in OA 2124/2011 by the Principal Bench. The said OA 1758/2014 was disposed off with a direction to consider the representation of the applicants and pass speaking order. Accordingly, respondents considered the representations and passed speaking order on 3.11.2016 stating that the applicants had earned more than two promotions and are not entitled to ACP Scheme and no stepping up of pay can be granted. Against the said order the applicants had filed this OA. The respondents admitted the Principal Bench order in O.A.No.2124/2011 and it had become final and they had granted those relief to the applicants in that OA. It was also stated that the benefit of order in OA 2124/2011 was extended to similarly placed applicants in OA Nos. 1095/1096, 1097 of CAT, Hyderabad Bench and OA 440/2014 of CAT, Patna Bench as advised by DOLA. But

the DOPT vide OM No.1200106/16/CR dated 8.12.16 had advised that stepping up of pay on account of MACP is not allowable and the matter is subjudice.

4. According to the respondents, financial upgradation under ACP Scheme granted to an employee who had stagnated is purely personal and has no relevance to his seniority.

5. Heard both sides. The question to be decided is whether the applicants are entitled to get stepping up of their pay on par with the juniors as claimed by them. The applicants mainly rely upon the order in *Ashok Kumar v. Union of India & Others (OA No.156/JK/2008 dated 19.1.2010 which was confirmed by the Punjab & Haryana High Court Order in CWP.No.12894/2010 dated 23.7.2010.* (The SLP filed against the order was dismissed by the Hon'ble Supreme Court). They also rely on the decision of the *CAT, Principal Bench in OA 2124/2011 dated 01.2.2013* in support of the applicants. According to the applicants, the matter has already been decided by Coordinate Benches of the Tribunal and it has become final and the respondents are bound to follow the decisions.

6. On going through the decision in OA 2124/2011 of the Principal Bench, it can be seen that the applicants therein joined the Postal Department as LDC's and were promoted as Junior Accountants. Thereafter 80% of the Junior Accountants were redesignated as Senior Accountants due to restructuring. Subsequently on 09.8.99 the G.O.I had implemented Assured Career promotion to civilian employees who had

completed 12 and 24 years of service without promotion. The applicants were denied the benefits of the scheme on the ground that they had already received two promotions and those who joined as Junior Accountants by direct recruitment had got only one promotion and they were given the benefit of one ACP. So, the Junior Accountants who were recruited directly began to get more salary than the seniors. From the above facts, it can be seen that the facts are very much similar to the case of the applicants. The facts of Ashok Kumar's case referred supra is also similar. In that case also, the respondents main contention is that the applicant initially joined as LDC in 1980 and then he was promoted as UDC in 1988 and then as Tax Assistant and then Inspector and had received two promotions and hence they are not entitled to get ACP and they cannot be granted stepping up of pay. The Chandigarh Bench of the Tribunal following ***Harcharan Singh Sudan v. Union of India (OA No.96-CH-2007) and Pavan Kumar v. Union of India (OA 97-CH-2007 dt. 23.5.08)*** allowed the OA and ordered for stepping up of the pay of the applicant on par with the pay given to his juniors. The respondents had challenged the order in CWP No.12894/10 and the Hon'ble Punjab & Haryana High Court had upheld the order of the Tribunal. So, from the above decisions of the CAT, Punjab & Haryana Bench and the decision of the Principal Bench, it can be seen that the case of the applicants is also similar. The respondents had admitted that the order of the Principal Bench in OA 2124/2011 is already implemented in favour of the applicants therein. In this circumstances, we

are unable to deny the same benefits to the applicants herein. The facts are similar and the contentions raised by the respondents are also similar.

7. So, we accordingly, set aside Annexure A24 order passed by the respondents dated 3.11.2016. The respondents are directed to consider the stepping up of pay of the applicants on par with their juniors who are direct recruits on the basis of the law laid down in the case.

8. With the above direction the OA is disposed off. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

16.07.2019

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